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DED-2692

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WILLIAM T. WALSH
CLERK

AT 8:30

WILLIAM T. WALSH
CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SIG CORPOPLAST GmbH & CO. KG,
a German Corporation, and
SIG PLASTICS TECHNOLOGIES (USA),
INC., a Delaware Corporation,

Plaintiffs,

vs.

MILACRON, INC., a Delaware
Corporation,

Defendant.

Civil Action No.: 01-399(MLC)

COMPLAINT

Plaintiffs SIG Corpoplast GmbH & Co. KG and SIG Plastics Technologies (USA), Inc., by way of Complaint against defendant Milacron, Inc., allege as follows:

The Parties

1. Plaintiff SIG Corpoplast GmbH & Co. KG is a corporation incorporated under the laws of Germany and has its principal place of business at Meiendorfer Strabe 203, D-22145 Hamburg, Germany.

2. Plaintiff SIG Plastics Technologies (USA), Inc. is a corporation incorporated under the laws of Delaware and has its principal place of business at 260 Evans Way, Branchburg, New Jersey

08876. SIG Corpoplast GmbH & Co. KG and SIG Plastics Technologies (USA), Inc. are hereinafter collectively referred to as "SIG".

3. Defendant Milacron Inc. ("Milacron") is a corporation incorporated under the laws of Delaware, and has a place of business at 2090 Florence Avenue, Cincinnati, Ohio, 45206. Milacron conducts business throughout the United States, including New Jersey.

Jurisdiction and Venue

4. Jurisdiction of this Court arises under 28 U.S.C. §§ 1331, 1338, 2201 and 2202.

5. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1391(c).

6. This Court has personal jurisdiction over Milacron.

Background

7. On October 29, 1991, U.S. Letters Patent No. 5,062,052 (the "'052 Patent"), entitled "Logic Controlled Plastic Molding Machine With Programmable Operator Interface," issued to Cincinnati Milacron Inc. as the assignee thereof. On or about November 18, 1997, the '052 Patent was amended by Reexamination Certificate B1 5,062,052. A true and correct copy of the '052 Patent with Reexamination Certificate is attached hereto as Exhibit A.

8. Upon information and belief, more than one year prior to the date of the application for the '052 Patent, one or more of the claimed inventions were in public use or on sale in the United States.

9. Upon information and belief, Milacron is the owner of the '052 Patent, and its business activities include the assertion and licensing of the '052 Patent.

10. At times relevant hereto, SIG has sold or offered for sale in the United States certain plastic molding machines.

11. In or about November, 2000, Milacron advised SIG that it was the owner of the '052 Patent and that SIG's manufacture, use, sale or offer for sale of certain plastic molding machines ("accused products") infringe upon the '052 Patent. Milacron stated that it was moving forward "aggressively" with a licensing program for the '052 Patent and that it had entered into license agreements with other companies "without resort to legal action." According to Milacron, the licensed companies recognized the "potentially devastating effects of the remedies associated with an adverse decision in a legal battle." Milacron further advised SIG that it was committed to

enforcing its rights, and that Milacron had already commenced actions before the International Trade Commission and in the Federal Courts to enforce the '052 Patent.

12. Through November and December 2000, Milacron advised SIG that SIG's deadline for agreeing to a license would expire at the end of the calendar year, and that SIG's failure to take a license would result in Milacron seeking an order from the International Trade Commission barring SIG from importing the accused products. Alternatively, Milacron advised that it intended to commence an action for infringement of the '052 Patent.

13. In response to Milacron's threats, SIG advised Milacron that it does not infringe the '052 Patent and/or that the patent is invalid. Notwithstanding, Milacron has continued to threaten SIG with "infringement" and legal proceedings unless SIG agrees to a license.

14. There is a substantial and continuing justiciable controversy between Milacron and SIG with respect to any infringement upon the '052 Patent by SIG's manufacture, use, sale or offer for sale of the accused products in the United States.

COUNT I

NON-INFRINGEMENT

15. Plaintiffs incorporate paragraphs 1 - 14 herein as if set forth in full.

16. SIG has not and does not infringe upon any claim of the '052 Patent, either literally or under the doctrine of equivalents.

COUNT II

INVALIDITY - § 112

17. Plaintiffs incorporate paragraphs 1 - 16 herein as if set forth in full.

18. One or more claims of the '052 Patent fail to particularly point out and distinctly claim the subject matter of the invention and are invalid under 35 U.S.C. § 112, paragraph 2.

COUNT III

INVALIDITY - OBVIOUSNESS

19. Plaintiffs incorporate paragraphs 1 - 18 herein as if set forth in full.

20. The subject matter allegedly claimed in one or more of the claims of the '052 Patent would have been obvious to one skilled in the art and are invalid under 35 U.S.C. § 103.

COUNT IV

INVALIDITY - ANTICIPATION

21. Plaintiffs incorporate paragraphs 1 - 20 herein as if set forth in full.

22. The '052 Patent contains claims that are anticipated by the prior art and that are invalid under 35 U.S.C. § 102.

RELIEF REQUESTED

WHEREFORE, plaintiffs demand judgment against the defendant Milacron Inc. as follows:

a) declaring that plaintiffs and their respective corporate affiliates that make, use, sell and/or offer for sale in the United States accused devices) do not infringe the '052 Patent;

b) declaring that the claims of the '052 Patent are invalid;

c) awarding attorneys fees and costs; and

d) awarding such further relief that the Court deems equitable and just.

GIBBONS, DEL DEO, DOLAN,
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By: 

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Dated: January 23, 2001